

**REMARKS**

Claims 1 and 2 are rejected as rendered obvious by British Patent No. 254,957 to Holt ("Holt") and U.S. Patent No. 1,936,129 to Fisk ("Fisk") under 35 U.S.C. § 103(a). The Examiner has also rejected claims 4, 5 and 21 as obvious over Holt in view of Fisk in further view of U.S. Patent No. 1,243,472 to Wilson ("Wilson") and rejected claims 6, 7, 9 and 15-19 as obvious over Holt in view of Fisk in view of Wilson in further view of U.S. Patent No. 4,469,092 to Marshall *et al.* ("Marshall"). Applicant respectfully traverses the rejection.

Claim 1 stands rejected as rendered obvious by Holt in view of Fisk. Claim 1 requires that "the flow from the cavity to the connection tube allowing substantially all of the contaminants to be transmitted substantially unimpeded from the cavity to the connection tube" and "at least one collection vial operatively associated with the vacuum line for removing the contaminants transmitted through the vacuum line."

The Examiner starts off explaining his rejection of claim 1 by stating "Regarding the new limitations added to the claim, Holt teaches a plate 28 in which to collect contaminants from entering the vacuum system." Since you can't collect contaminants in a plate, Applicants interpret this sentence as containing a typographical error and assume that Examiner intended to say "Regarding the new limitations added to the claim, Holt teaches a plate 28 in which to **prevent** contaminants from entering the vacuum system" since Holt itself states "The plate will prevent this material from being drawn into the air passage, the said material being collected within the cup-shaped holder 20." See Holt, page 2, lines 63-69.

The Examiner further states that Holt and Fisk are "equivalent alternative means for doing the same thing. It would have obvious to replace plate 28 with the vial within the vacuum line as taught by Fisk as an obvious equivalent alternative means for doing the same thing".

Applicant respectfully traverses the Examiner's rejection and submits that combining a reference which teaches blocking contaminants from entering the vacuum line with a reference that teaches allowing contaminants to enter the vacuum line. Holt and Fisk are not "alternative means for performing the same function" but rather are two references that teach total opposites. Because Holt and Fisk teach opposite conclusions for the treatment of contaminants with the massager, one reference allowing contaminants in the vacuum line and one reference specifically stating that contaminants are blocked from the vacuum line, Holt and Fisk teach away from one another and are not properly combinable references.

In short, the Examiner is attempting to use Fisk to remove an element of Holt despite the fact that Holt teaches such element as necessary. This is an improper use of hindsight to reconstruct the present invention. No reference teaching the allowance of contaminants in the vacuum line can remove or negate the explicit teaching of Holt that contaminants are not allowed in the vacuum line.

Claim 2 depends from claim 1 and includes all of the limitations of claim 1. Therefore, claim 2 is patentable for at least the same reasons as claim 1.

Claims 4-7 and 9 depend from claim 1 and include the limitations of claim 1. Claims 4 and 5 have been further rejected over the references applied to claim 1 in further view of Wilson. Claims 6-7 and 9 have been rejected over the references applied to claims 4 and 5 in further view of Marshall. As Applicant has argued that Holt and Fisk are not properly combinable references, the combination of Holt, Fisk and Wilson and the combination of the Holt, Fisk, Wilson and Marshall are not properly combinable for the same reasons. Additionally, Marshall and Wilson do not disclose the missing limitations of claim 1 namely "the flow from the cavity to the connection tube allowing substantially all of the contaminants to be transmitted substantially

unimpeded from the cavity to the connection tube" and "at least one collection vial operatively associated with the vacuum line for removing the contaminants transmitted through the vacuum line." Therefore, claims 4-7 and 9 are allowable over the prior art of record.

Claim 15 requires "the flow from the cavity to the connection tube allowing substantially all of the contaminants to be transmitted substantially unimpeded from the cavity to the connection tube" and "at least one collection vial operatively associated with the vacuum line for removing the contaminants transmitted through the vacuum line." Therefore, claim 15 is allowable over the prior art of record for the same reasons as claims 1-2, 4-7 and 9.

Claims 16-19 depend from claim 15 and incorporate all of the limitations of claim 15. Therefore, claim 16-19 are allowable over the prior art of record for the same reasons as claim 15.

Claim 21 requires "the flow from the cavity to the connection tube allowing substantially all of the contaminants to be transmitted substantially unimpeded from the cavity to the connection tube" and "a first collection vial operatively associated with the vacuum line for removing contaminants transmitted from the vacuum line and a second vial placed in series with the first vial for removing contaminants transmitted from the vacuum line." Therefore, claim 21 is allowable over the prior art of record for the same reasons as claims 1-2, 4-7 and 9.

New claim 22 requires "said connection tube being removable with said applicator and adapted to pass contaminants from the cavity, the flow from the cavity to the connection tube being free of any structure that would prevent allowing the contaminants to be transmitted unimpeded from the cavity to the connection tube" and "at least one collection vial operatively associated with the vacuum line for removing the contaminants transmitted through the vacuum line." As such, claim 22 is allowable over the prior art of record.

Based on the foregoing, the allowance of claims 1, 2, 4-7, 9, 15-19 and 21-22 is respectfully requested. If for any reason the Examiner is unable to allow the application on the next Office Action, the Examiner is requested to contact the undersigned attorney to discuss the matter.

Respectfully submitted,



Nelson D. Nolte, Reg. No. 42,938  
Polster, Lieder, Woodruff & Lucchesi, LC  
12412 Powerscourt Dr. Ste. 200  
St. Louis, Missouri 63131  
Tel: (314) 238-2400  
Fax: (314) 238-2401